

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4522 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

IBRAHIM VALI BAPU PATEL

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR CL SONI for Petitioner

MR HL JANI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, a Trust registered under the provisions of the Bombay Public Trust Act, filed this petition before this Court and challenged is made therein to the order of the Gujarat Revenue Tribunal made on 16.4.84 in Revision Application No.TEN.B.A.16/84.

2. The matter has arisen out of the proceedings

under the Gujarat Agricultural Land Ceiling Act, 1960. The Mamlatdar and A.L.T. (Ceiling), Jambusar, served a show cause notice upon the Managing Trustee of the Trust under the provisions of the Act aforesaid alleging that he had reason to believe that the lands held by the trust were in excess of ceiling limits. After holding inquiry, the Mamlatdar and A.L.T. (Ceiling), Jambusar, held that the petitioner possessed the land in excess of ceiling area and land admeasuring Acre 25 - 30 Gunthas was declared as excess land. This order was taken up by the petitioner in appeal before the Deputy Collector, Bharuch, being Ceiling Appeal No.73/77. The matter was remanded back to the lower authority by the appellate authority. On remand, inquiry has been made and under the order dated 10.1.80, the Mamlatdar and A.L.T. (Ceiling), concerned, held that the petitioner has no land in excess of ceiling limits.

3. The Deputy Collector, Bharuch, has taken up the matter suo-motu in revision which was numbered R.C. No.2 of 1980 and order of the Mamlatdar and A.L.T. (Ceiling) concerned has been set aside. The petitioner, against this order of Dy. Collector in revision, preferred a revision application being Ceiling Revision Application No.65/81 before the Gujarat Revenue Tribunal. The Tribunal has allowed the revision application and the matter was remanded back to the Dy. Collector, Bharuch for fresh decision. The remanded matter has been decided by the Dy. Collector, Bharuch, under its order dated 3.7.82. The Dy. Collector again held that the petitioner holds the land in excess of ceiling limits. This order, again has been challenged by the petitioner by filing revision application No.TEN.B.A.No.16/84, before the Gujarat Revenue Tribunal, which came to be dismissed on 16.4.84. Hence this Special Civil Application.

4. The Tribunal has considered all objections raised by the counsel for the petitioner before it and none of the contentions found favour of the Tribunal. The main thrust of arguments of the learned counsel for the petitioner is that as per the Registration Certificate of Trust given by the Charity Commissioner, there are three mosques and therefore the applicant is entitled to three units. After registration of the Trust, it appears that one more mosque has come under the management of the Trust. The Trust is the a legal person and the Tribunal has rightly held that as per Section 6 of the Act, it is entitled to hold only one unit. The Trust may have under its management different mosques, but each mosque will not be taken to be a separate unit. All the mosques are

under the management of one Trust, and as such, the Dy. Collector, and the Tribunal have not committed any error in holding that the Trust, as a legal person, is entitled to hold only one unit. The Dy. Collector has given finding of the fact that prior to coming into force of the ceiling limit to the State, the lands of all mosques were under one account and only after coming into force of the Act, the Trust moved and application for three separate accounts of all mosques which was granted by Charity Commissioner, but the same has not been approved by the competent officer. From facts above it transpires that the petitioner is claiming three different accounts only with a view to defeat the provisions of Ceiling Act. This clearly gives out the intention and purpose of the petitioner. The authorities below have rightly not permitted the petitioner to defeat the object and purpose of the Act.

5. The learned counsel for the petitioner is unable to cite any provisions from the Act or any decision in support of the proposition that though admittedly all the three mosques are managed by the Trust, a legal person, the same are not to be treated as one unit. The matter would have been different when each mosque would have been managed by a separate Trust, which is not the case here. I do not find any perversity in the order made by the Tribunal which calls for interference of this Court. The Apex Court, in the case of Laxmikant Revachand Bhojwani v. Pratapsingh M. Pardesi, reported in 1995(6) SCC 576, with reference to the Rent Control Act, has held that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in that case. The Court has further observed that the Act is a special legislation governing landlord-tenant relationship and disputes. Exactly, the Ceiling Act is also a special legislation governing the matters regarding land in excess of ceiling limits. The legislature has, in its wisdom, not provided appeal or revision against the order made by the Tribunal in the matter arising out of the Agricultural Land Ceiling proceedings under the Act in question. The Supreme Court, in this context, has observed that object behind non providing appeal or revision to the High Court by legislature is to give finality to the decision of the Appellate Authority. Here is a case of revisional authority. The Court has held that the High Court, under Article 227 of the Constitution, cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental abuse of law and justice, where grave injustice would be

done unless High Court interferes. The powers of judicial review of this Court sitting under Article 227 of the Constitution of India, in the matters arising out of Agricultural Land Ceiling Act or any such Act, are very limited as decided by the Apex Court in the aforesaid case. The present case does not fall in any of the exceptions and no interference therefore can be made in the order of the Tribunal by this Court.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Ad-interim relief, if any, granted by this Court stands vacated. No order as to costs.

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(sunil)